

REMARKS

In the USPTO office action issued July 5, 2000 in respect to the above entitled application, the examiner objected to claims 14 and 31 under 35 USC 112 and rejected most claims under 35 USC 103 as being unpatentable over Ryan U.S. Patent 5,590,195 by itself and in view of Yurt U.S. Patent 5,132,992. In addition, dependent claims 13, 30, and 41 were rejected under 35 USC 103 as being unpatentable over Ryan U.S. Patent 5,406,626 in view of Yurt further in view of Barrett U.S. Patent 5,287,420.

On October 23, 2000, applicant and applicant's attorney interviewed the examiner in respect to this office action. In this interview, applicant indicated that the affidavit filed March 27, 1997 in the application would antedate the claims over the examiner's main Ryan '195 reference and further that the same affidavit would also antedate any Ryan reference in respect to the claims directed to changing run time or frequency information. Applicant further indicated that he thought an editorial/procedural type amendment would place the application into condition for allowance irrespective of which Ryan was reviewed. The examiner invited consideration by a draft amendment.

In respect to the examiner's Ryan '195 reference, on September 26, 1996 the USPTO issued an office action rejecting claims based on Ryan U.S. Patent 5,524,051 filed April 6, 1994. On March 27, 1997, applicant filed an affidavit antedating this '051 patent, which affidavit was accepted.

Presently cited Ryan U.S. Patent 5,590,195, issued December 31, 1996, was filed on January 12, 1994. This '195

patent is antedated by the same affidavit that antedated the Ryan '051 patent.

In respect to the claims that recite the selection of a stored (recorded) entertainment/data signal and the playback thereof, for example, the present application contains a priority claim of the prior application U.S. Serial 08/322,069 with the same above cited affidavit indicating a conception date before January, 1993. This prior application issued as U.S. Patent 5,920,824 on July 6, 1999 (enclosed). This '824 patent includes a signal playback circuit that takes data in respect to a storage medium area (300) via a use interface (310) to present it (fig 25; col 4 lns 58-61; col 20 lns 49-63). A particular application is with a stored compressed MPEG audio/visual signal (col 16 lns 62-63). The interface (310) controls stop, record, play, search, and other functions (col 20 lns 36-41). Faster or slower recording/replay can be provided through a conversion system (col 20 lns 15-17; col 1 lns 37-55; col 3 ln 65-col 4 ln 6). This antedates any Ryan reference especially in respect to a differing time/frequency/etc. (for example claims 21-23, 29-31, 46-47, 54-55).

In the October 23, 2000 interview, applicant indicated that, in addition to the above, it was thought that a slight editorial type modification would place the application into condition for allowance over any teaching as that in a Ryan reference. A point that applicant made was that in the preferred embodiment of the present invention, the substantive program content can be displayed while in Ryan only the menus could be said to be subject to a visual

display. The examiner indicated that she would consider this when submitted to her in writing, suggesting that a draft amendment would be appropriate in view of the situation.

Every Ryan patent teaches in pertinent part of the visual display of only database menus ('626 col 3 ln 68-col 4 ln 2; '051 col 5 lns 49-54; '195 col 5 lns 35-40). In all Ryan references, the information in the device (be it news, sports, weather, or other information) is provided in verbal audio via a speech synthesizer ('626 col 2 lns 41-45, 53-59, etc.; item 30 in fig 1) and via synthesis or the direct decompression of audio data ('051 col 2 lns 38-42; col 4 lns 12-15, 21-26; '195 col 2 lns 16-21; col 3 lns 45-47, 62-67; items 45 and 30 in fig 1 of both).

To clarify the distinctiveness of the existing claims, applicant has determined that modifying the recitation in the claims to recite there is some substantive displayable information, and that this information can be distinct from "listing" information, would distinguish over the Ryan references in the application via a minor clarification type modification.

For example, applicant's specification teaches of a data manager which stores, archives, and/or accesses selected portions of active or previously stored program material so as to allow the interactive programming control of the information on delivery channels, programs having information which is of intrinsic value, for example, entertainment programs, informational programs, and other information (pg 8 lns 2-10).

Applicant's specification teachings include listing of programs be they upcoming, (pg 14 lns 10-13), stored (pg 21 lns 16-18), ignored (pg 9 ln 14) and/or otherwise virtually at random (pg 2 lns 18-25). This can be different than the programs themselves (schedule information pg 10 ln 22; guide services pg 14 lns 8-16, pg 72 lns 2-3; menu selections pg 19 lns 1, 12; spread sheet fig 4; embedded information pg 70 lns 10-14, etc.). This allows a user to access, store, retrieve or otherwise utilize the substantive programs (pg 7 lns 9-10, 13, 18-20, pg 12 lns 21-24, etc.)

Applicant's specification thus teaches in a preferred embodiment that the multiple programs which are displayed may be other than the listing information which is utilized to choose the programs.

This is distinct from any of the Ryan references which teach that the any visual display of the uses interface (e.g., the menu used to select a category) is different than the actual audio speech which is output from the loud speaker therein, whether this speech is output through: a) the speech synthesizer (as in '626); or, b) direct decompressed digital audio or the output of a voice synthesizer (as in '051 and '195).

Based on the above, applicant respectfully requests the examiner's reconsideration of the office action issued on July 5, 2000.

To facilitate this reconsideration, applicant has modified claims 14 and 31 in order to meet the examiner's 35 USC 112 objections thereto. It is noted that in respect to the term "currency", the present application teaches of the

data manager eliminating previously stored information based on a known set of priorities, which parameters may be selected by the user (pg 11 lns 12-14, 21-22). This may include storing only the certain number of days worth of programs from a particular program (pg 12 lns 2-5). The user thus can choose this process from others rather than always merely recording the last in a series of programs (e.g., the most "current"). This data manager is thus much more flexible than Ryan in that the user can (at his option) choose other parameters for overwriting stored material to clarify this difference. Applicant now uses the term "updating of existing materials" instead of "currency" in claim 14. Claim 31 has been modified as suggested by the examiner. The dependent claims also distinguish by reciting a MPEG signal in addition to other elements. MPEG is a television system.

It is believed that the above amendments place the application into condition for allowance.

Favorable action is solicited.

Respectfully submitted,  
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